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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/767,128	01/29/2004	Javier Castaneda	HAN-026	4366
7590	11/02/2004		EXAMINER	
David S. Jacobson Gordon & Jacobson, P.C. 65 Woods End Road Stamford, CT 06905			THOMAS, DAVID B	
			ART UNIT	PAPER NUMBER
			3723	

DATE MAILED: 11/02/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	10/767,128	CASTANEDA, JAVIER
	<b>Examiner</b>	<b>Art Unit</b>
	David B. Thomas	3723

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
  - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
  - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
  - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 29 January 2004.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-17 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 29 January 2004 is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
    - a) All    b) Some \* c) None of:
      1. Certified copies of the priority documents have been received.
      2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
      3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____ .  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>6/25/04</u> . | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
|  | 6) <input type="checkbox"/> Other: _____.                                   |

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fenton (4,191,228) in view of Baule (2,538,350) and Fruhm (6,352,011).

Fenton ('228) discloses a driver for a fastener having a shaft having a tip, which is tapered along its length, wherein a first cross-section along the length defines a first size and a second cross-section along the length defines a relatively smaller second size and being rotationally offset relative to each other. Fenton ('228) discloses that the purpose of the taper and twist is to improve the efficiency of the torque transfer between the driver and the fastener due to increased surface area of contact, i.e. planar contact between the driver and the fastener. Thus, Fenton ('228) discloses the claimed invention except for providing cross-sections of "regular polygonal" shapes, e.g., square, pentagon, hexagon, etc. Baule ('350) discloses a driver for a fastener, and teaches the provision of the tip having a regular polygonal cross-section wherein along a length of the tip, the regular polygons are rotationally offset relative to each other. Fruhm ('011) discloses a driver and teaches that the fastener engaging tip may have different structural forms, e.g., phillips<sup>TM</sup>, bladed, square, hexagonal, Torx<sup>TM</sup>, but are functionally equivalent. Therefore, the examiner, respectfully, contends that it would

have been obvious to one having ordinary skill in the art at the time the invention was made to have modified the cross-sectional shape of the tip of Fenton ('228) such that the cross-sectional shape is a regular polygon, as Baule ('350) has taught the provision of a tip of regular polygonal shape having a "twist" in order to improve the contact between the driver and the fastener, and Fruhm ('011) has taught that driver bits having different cross-sectional shapes are functionally equivalent and that the shape of the driver bit is chosen based upon the shape of the opening on the head of the fastener. The examiner notes the equation for determining the angle of the twist of the tip, and respectfully contends that it would have been obvious to one having ordinary skill in the art at the time the invention was made to have determined an equation to define the angle of the tip, since it has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or workable ranges involves only routine skill in the art. *In re Aller*, 220 F.2d 454, 456, 105 USPQ 233, 235 (CCPA 1955).

### ***Conclusion***

3. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. DiGiovanni discloses a driver for a fastener.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to David B. Thomas whose telephone number is (703) 308-4250. The examiner can normally be reached on 7-4 M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph J. Hail can be reached on (703) 308-2687. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



David B. Thomas  
Patent Examiner  
Art Unit 3723

dbt